

reading and passage to engrossment the following bill:

S. B. No. 1, A bill to be entitled "An Act appropriating money for the support of the Judicial, Executive, and Legislative branches of the State Government, for the construction of State buildings, the payment of claims against the State, and for State aid to designated public junior colleges, for the two-year period beginning September 1, 1961, and ending August 31, 1963; authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency."

The bill was read the second time and was passed to engrossment.

#### Record of Votes

Senators Krueger and Hardeman asked to be recorded as voting "Nay" on the passage of S. B. No. 1 to engrossment.

#### Senate Bill 1 on Third Reading

The Constitutional Rule requiring bills to be read on three several days having been suspended the President Pro Tempore laid S. B. No. 1 before the Senate on its third reading and final passage.

The bill was read the third time and was passed.

#### Record of Votes

Senators Krueger and Hardeman asked to be recorded as voting "Nay" on the final passage of S. B. No. 1.

#### Welcome Resolutions

S. R. No. 5—By Senator Herring: Extending welcome to students and teacher of Civics Class of Austin High School.

#### Adjournment

On motion of Senator Hardeman the Senate at 11:30 o'clock a.m. adjourned until 9:30 o'clock a.m. on Monday, July 17, 1961.

### SECOND DAY

(Monday, July 17, 1961)

The Senate met at 9:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis

#### Absent—Excused

Rogers

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, July 13, 1961, was dispensed with and the Journal approved.

#### Leave of Absence

Senator Rogers was granted leave of absence for today on account of important business on motion of Senator Schwartz.

Committee to Escort the Honorable Lyndon B. Johnson and the President of Pakistan to the Joint Session

The President announced the appointment of the following as a committee to escort the Honorable Lyndon B. Johnson and the President of Pakistan pursuant to the provisions of S. C. R. No. 1:

Senators Krueger, Herring, Kazen, Secrest and Creighton.

#### Resolution Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled resolution:

S. C. R. No. 2, In memory of Mr. Clark Thompson, Jr.

#### Senate Bill 15 on First Reading

The following bill was introduced, read first time and held for referral:

By Senator Baker:

S. B. No. 15, A bill to be entitled An Act relating to the Municipal Pension Systems in certain cities amending Chapter 358, Acts of the Forty-eighth Legislature, 1943, as amended; and declaring an emergency.

**Senate Bill 9 Referred**

The following bill, which was introduced and read first time on Thursday, July 13, 1961, was referred to the committee indicated:

S. B. No. 9, To the Committee on Education.

**Senate Concurrent Resolution 4**

Senator Schwartz offered the following resolution:

S. C. R. No. 4, Granting permission to Natural Gas Products Company of America to sue the State of Texas.

Whereas, Natural Gas Products Company of America, is a corporation duly incorporated under the laws of the State of Texas, with its principal office and place of business in Midland, Midland County, Texas; and

Whereas, Natural Gas Products Company of America paid to the State severance beneficiary taxes in the amount of \$689.43, for the months of September, 1959, October, 1959, November, 1959 and December, 1959, said taxes being levied by Articles 22.01-22.09, House Bill 11, Acts 1959, 56th Leg. 3rd C. S., page 187, Ch. 1, which Act has been declared unconstitutional by the Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, in the case styled Calvert v. Transcontinental Gas Pipeline Corporation, 341 S. W. 2d 680 (Tex. Civ. App.—Austin, 1960, error refused); and

Whereas, The Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, has held that taxes paid under this Act were unlawfully extracted and that said Act was void and of no force or effect; and

Whereas, There is no provision in the Laws of the State of Texas to determine accurately and definitely what amount of taxes, if any, should be returned; and

Whereas, In order to determine definitely and accurately the same, it

is the policy of this Legislature to let a court of competent jurisdiction pass upon the same; and

Whereas, It is the policy of the Legislature to give and grant to persons and corporations the right to litigate any valid claim against the State of Texas in a court of competent jurisdiction; Now, therefore, be it

Resolved by the Senate of Texas with the House of Representatives concurring, That Natural Gas Products Company of America be and it is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted and paid by Natural Gas Products Company of America under said unconstitutional law and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer and the Comptroller of Public Accounts; and be it further

Resolved, That such suit may be filed within two years from the effective date of this resolution; and be it further

Resolved, That it is understood that the purpose of this resolution is solely to grant permission to bring suit against the State of Texas and no admission of the liability on the part of the State or any fact is made by this resolution, and it is specifically provided that the facts upon which they seek to recover must be proved in court as in other civil cases; and be it further

Resolved, That no interest shall be paid to Natural Gas Products Company of America in the event a final judgment is obtained by it for recovery of taxes paid under Articles 22.01-22.09, Acts 1959, 56th Leg. 3rd C. S.; provided if a final judgment is obtained by Natural Gas Products Company of America, all increases in rates obtained on the basis of taxes paid under said Act shall be refunded in full to all those having paid such rate increases.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring resolutions to be read on three several days in each House be suspended, and this resolution shall take effect from and after its passage.

The resolution was read and was held for referral.

#### Senate Concurrent Resolution 5

Senator Schwartz offered the following resolution:

S. C. R. No. 5, Granting permission to Roy D. Payne, Agent, to sue the State of Texas.

Whereas, Roy D. Payne, Agent, is a resident of the City of Austin, Travis County, Texas; and

Whereas, Roy D. Payne, Agent, paid to the State severance beneficiary taxes in the amount of \$367.95 for the month of September, 1959, October, 1959, November, 1959, December, 1959 and April, 1960, said taxes being levied by Articles 22.01-22.09, House Bill 11, Acts 1959, 56th Leg., 3rd C. S., page 187, Ch. 1, which Act has been declared unconstitutional by the Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, in the case styled Calvert v. Transcontinental Gas Pipeline Corporation, 341 S.W. 2d 680 (Tex. Civ. App.—Austin, 1960, error refused); and

Whereas, The Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, has held that taxes paid under this Act were unlawfully extracted and that said Act was void and of no force or effect; and

Whereas, There is no provision in the laws of the State of Texas to determine accurately and definitely what amount of taxes, if any, should be returned; and

Whereas, In order to determine definitely and accurately the same, it is the policy of this Legislature to let a court of competent jurisdiction pass upon the same; and

Whereas, It is the policy of the Legislature to give and grant to persons and corporations the right to litigate any valid claim against the State of Texas in a court of competent jurisdiction; now, therefore, be it

Resolved, By the Senate of Texas with the House of Representatives concurring, that Roy D. Payne, Agent, be and he is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted and paid by

Roy D. Payne, Agent, under said unconstitutional law and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer, and the Comptroller of Public Accounts; and be it further

Resolved, That such suit may be filed within two years from the effective date of this resolution; and be it further

Resolved, That it is understood that the purpose of this resolution is solely to grant permission to bring suit against the State of Texas and no admission of the liability on the part of the State or any fact is made by this resolution, and it is specifically provided that the facts upon which he seeks to recover must be proved in court as in other civil cases; and be it further

Resolved, That no interest shall be paid to Roy D. Payne, Agent, in the event a final judgment is obtained by him for recovery of taxes paid under Articles 22.01-22.09, Acts 1959, 56th Leg., 3rd C. S.; provided if a final judgment is obtained on the basis of taxes paid under said Act shall be refunded in full to all those having paid such rate increases.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring resolutions to be read on three several days in each House be suspended, and this resolution shall take effect from and after its passage.

The resolution was read and was held for referral.

#### Senate Concurrent Resolution 6

Senator Schwartz offered the following resolution:

S. C. R. No. 6, Granting the Comanche Company permission to sue the State of Texas.

Whereas, The Comanche Company is a partnership composed of J. S. Meriwether, Jr., H. C. Berry, Ima Sims Wallace, a widow, all of Pecos County, Texas, and Joe G. Sier, of Midland County, Texas; and

Whereas, The Comanche Company paid to the State severance beneficiary taxes in the amount of \$243.80, for the months of September, 1959, October, 1959 and November, 1959, said taxes being levied by Articles 22.01-22.09, House Bill 11, Acts 1959, 56th Leg., 3rd C. S., page 187, Ch. 1, which

Act has been declared unconstitutional by the Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, in the case styled Calvert v. Transcontinental Gas Pipeline Corporation, 341 S. W. 2d 680 (Tex. Civ. App.—Austin, 1960, error refused); and

Whereas, The Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, has held that taxes paid under this Act were unlawfully extracted and that said Act was void and of no force or effect; and

Whereas, There is no provision in the laws of the State of Texas to determine accurately and definitely what amount of taxes, if any, should be returned; and

Whereas, In order to determine definitely and accurately the same, it is the policy of this Legislature to let a court of competent jurisdiction pass upon the same; and

Whereas, It is the policy of the Legislature to give and grant to persons and corporations the right to litigate any valid claim against the State of Texas in a court of competent jurisdiction; now, therefore, be it

Resolved, By the Senate of Texas with the House of Representatives concurring, that The Comanche Company be and it is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted and paid by The Comanche Company under said unconstitutional law and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer and the Comptroller of Public Accounts; and be it further

Resolved, That such suit may be filed within two years from the effective date of this resolution; and be it further

Resolved, That it is understood that the purpose of this resolution is solely to grant permission to bring suit against the State of Texas and no admission of the liability on the part of the State or any fact is made by this resolution, and it is specifically provided that the facts upon which they seek to recover must be proved in court as in other civil cases; and be it further

Resolved, That no interest shall be paid to The Comanche Company in the event a final judgment is obtained by it for recovery of taxes paid under Articles 22.01-22.09, Acts 1959, 56th Leg., 3rd C. S.; provided if a final judgment is obtained by The Comanche Company, all increases in rates obtained on the basis of taxes paid under said Act shall be refunded in full to all those having paid such rate increases.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring resolutions to be read on three several days in each House be suspended, and this resolution shall take effect from and after its passage.

The resolution was read and was held for referral.

#### Senate Concurrent Resolution 7

Senator Schwartz offered the following resolution:

S. C. R. No. 7, Granting Owego Gas Transmission Company Inc. permission to sue the State of Texas.

Whereas, Owego Gas Transmission Company, Inc., is a corporation duly incorporated under the laws of the State of Texas, with its principal office and place of business in McCamey, Upton County, Texas; and

Whereas, Owego Gas Transmission Company, Inc. paid to the State severance beneficiary taxes in the amount of \$580.86 for the months of September, 1959, October, 1959, November, 1959 and December, 1959, said taxes being levied by Articles 22.01-22.09, House Bill 11, Acts 1959, 56th Leg., 3rd C. S., page 187, Ch. 1, which Act has been declared unconstitutional by the Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, in the case styled Calvert v. Transcontinental Gas Pipeline Corporation, 341 S. W. 2d 680 (Tex. Civ. App.—Austin, 1960, error refused); and

Whereas, The Austin Court of Civil Appeals, the Texas Supreme Court having refused writ of error, has held that taxes paid under this Act were unlawfully extracted and that said Act was void and of no force or effect; and

Whereas, There is no provision in the laws of the State of Texas to determine accurately and definitely what

amount of taxes, if any, should be returned; and

Whereas, In order to determine definitely and accurately the same, it is the policy of this Legislature to let a court of competent jurisdiction pass upon the same; and

Whereas, It is the policy of the Legislature to give and grant to persons and corporations the right to litigate any valid claim against the State of Texas in a court of competent jurisdiction; now, therefore, be it

Resolved, By the Senate of Texas with the House of Representatives concurring, that Owego Gas Transmission Company, Inc. be and it is hereby granted permission to bring suit against the State of Texas in any court of competent jurisdiction in Travis County, Texas, to recover judgment against the State of Texas for all amounts of money heretofore illegally extracted and paid by Owego Gas Transmission Company, Inc. under said unconstitutional law and service of citation for the purposes herein granted may be served upon the State of Texas by serving the Attorney General, the State Treasurer and the Comptroller of Public Accounts; and be it further

Resolved, That such suit may be filed within two years from the effective date of this resolution; and be it further

Resolved, That it is understood that the purpose of this resolution is solely to grant permission to bring suit against the State of Texas and no admission of the liability on the part of the State or any fact is made by this resolution, and it is specifically provided that the facts upon which they seek to recover must be proved in court as in other civil cases; and be it further

Resolved, That no interest shall be paid to Owego Gas Transmission Company, Inc. in the event a final judgment is obtained by it for recovery of taxes paid under Articles 22.01-22.09, Acts 1959, 56th Leg., 3rd C. S.; provided if a final judgment is obtained by Owego Gas Transmission Company, Inc., all increases in rates obtained on the basis of taxes paid under said Act shall be refunded in full to all those having paid such rate increases.

The facts stated above create an emergency and an imperative public necessity that the Constitutional Rule requiring resolutions to be read on

three several days in each House be suspended, and this resolution shall take effect from and after its passage.

The resolution was read and was held for referral.

#### Message from the Governor

The following messages received from the Governor were read and were referred to the Committee on Nominations:

Austin, Texas,  
July 11, 1961.

To the Senate of the Fifty-seventh Legislature, First Called Session:

I ask the advice, consent, and confirmation of the Senate with respect to the following appointments:

To be a member of the Texas Real Estate Commission, to fill the unexpired term of William J. Elliott, deceased, term to expire October 5, 1965: J. Morey Millerman of Abilene, Taylor County.

To be members of the State Board of Morticians, for six-year terms to expire May 31, 1967: Charles W. Marshall of Aransas Pass, San Patricio County; Bruce E. Leonard of Carrizo Springs, Dimmit County.

To be Associate Justice of the Court of Civil Appeals for the Eighth Supreme Judicial District, to fill the unexpired term of Judge William G. Abbott, deceased: William E. Clayton of El Paso, El Paso County.

To be District Attorney of El Paso County, to fill the unexpired term of William E. Clayton, resigned: Edwin F. Berliner of El Paso, El Paso County.

To be criminal district attorney of Polk County, to fill the unexpired term of Ward Jones, resigned: Claude Ray Bailey of Livingston, Polk County.

To be judge of the Court of Domestic Relations of Jefferson County: Ethridge R. Wright of Beaumont, Jefferson County.

To be Chief Justice of the Court of Civil Appeals for the Ninth Supreme Judicial District, to fill the unexpired term of Judge John R. Anderson, deceased: L. B. Hightower of Beaumont, Jefferson County.

To be Associate Justice of the Court of Civil Appeals for the Ninth Su-

preme Judicial District, to fill the unexpired term of Judge L. B. Hightower, resigned: Homer E. Stephenson of Orange, Orange County.

Respectfully submitted,

PRICE DANIEL,  
Governor of Texas.

Austin, Texas,  
July 13, 1961.

To the Senate of the Fifty-seventh Legislature, First Called Session.

I ask the advise, consent, and confirmation of the Senate with respect to the following appointments:

To be branch pilots for the Ports of Galveston and Texas City, for two-year terms to expire July 25, 1963: Basil V. O'Brien of Galveston, Galveston County; Sherman B. Wetmore of Galveston, Galveston County.

Respectfully submitted,

PRICE DANIEL,  
Governor of Texas.

Austin, Texas,  
July 12, 1961.

To the Senate of the Fifty-seventh Legislature, First Called Session.

I ask the advise, consent, and confirmation of the Senate with respect to the following appointment:

To be presiding judge of the First Administrative Judicial District, to fill the unexpired term of Judge W. L. Jack Thornton, deceased: Dallas A. Blankenship of Dallas, Dallas County.

Respectfully submitted,

PRICE DANIEL,  
Governor of Texas.

Austin, Texas,  
July 13, 1961.

To the Senate of the Fifty-seventh Legislature, First Called Session.

I ask the advise, consent, and confirmation of the Senate with respect to the following appointment:

To be a member of the San Antonio River Authority, to succeed John H. Weber, deceased, until an election is held in accordance with House Bill Number 83, Fifty-seventh Legislature, Regular Session: John Freeman Lott, Jr., of Berclair, Goliad County.

Respectfully submitted,

PRICE DANIEL,  
Governor of Texas.

#### Motion to Adjourn

On motion of Senator Hardeman the Senate agreed to stand adjourned at the conclusion of the Joint Session until 10:30 o'clock a.m. tomorrow.

#### Memorial Resolution

S. R. No. 6—By Senator Moore, Memorial resolution for William Jenkins Alexander.

#### Welcome Resolution

S. R. No. 7—By Senator Aikin, Extending welcome to Mr. and Mrs. Ed Herrman and family.

#### Joint Session

(To hear address of Vice-President Lyndon B. Johnson and the President of Pakistan, His Excellency Mohammed Ayuh Kahn.)

The President announced at 10:00 o'clock a.m. that the time had arrived pursuant to the provisions of S. C. R. No. 1 for the Senate to proceed to the Hall of the House of Representatives for a Joint Session to hear addresses of the Honorable Lyndon B. Johnson, the Vice-President of the United States, and His Excellency, Mohammed Ayuh Kahn, President of Pakistan.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The distinguished guests were announced by the Doorkeeper of the House and were escorted to the Speaker's Rostrum by Senators Krueger, Herring, Kazen, Secrest and Creighton, on the part of the Senate, and Representatives Dewey, de la Garga, Fletcher, Markgraf, Nugent, Rapp, Smith of Bexar and Foreman, on the part of the House.

The President called the Senate to order and announced a quorum of the Senate present.

The Speaker of the House asked the Members of the House to register and announced a quorum of the House present.

The President of the Senate presented the Honorable Price Daniel, Governor of Texas.

Governor Daniel extended a welcome to His Excellency, Mohammed Ayuh

Kahn, the same welcome that he had extended on Saturday when the President of Pakistan and party had landed on Texas soil. He presented the President a commission making him an Honorary Citizen of Texas. He also presented the President certificates making his three grandchildren Honorary Texas Cowboys.

Speaker of the House, James A. Turman, then presented the Honorable Lyndon B. Johnson, the Vice-President of the United States to the Joint Session.

Vice-President Johnson presented the following members of the official party to the Joint Session:

Begum Nasir Akhtar Aurangzeb, the daughter of the President and her husband.

His Excellency Aziz Ahmed S.P.K., Ambassador to the United States from Pakistan and his wife, Begum Shereen Aziz Ahmed.

His Excellency, Manzur Qadir, Minister of External Affairs.

His Excellency, M. Shoaib, Minister of Finance.

Brigadier Nawazish Ali Kahn, T.Q. A., Military Secretary to the President.

Brigadier M. Sarwar, Physician to the President.

Lieutenant Tasnim Ahmed, Aide-de-Camp to the President.

Congressman Johnny Rooney of Brooklyn, N. Y., Chairman of the Committee on Appropriations.

The Honorable Angier Biddle Duke, Chief of Protocol of the United States and Mrs. Duke.

Assistant Secretary of State Bill Crockett and

Mrs. Lady Bird Johnson.

Vice-President Johnson then addressed the Joint Session and then presented His Excellency, Mohammed Ayub Kahn, the President of the Republic of Pakistan.

The President of Pakistan then addressed the Joint Session.

#### Adjournment

At the conclusion of the Joint Ses-

sion, the President announced at 10:45 o'clock a.m. that the Senate would stand adjourned until 10:30 o'clock a.m. tomorrow on motion previously adopted in the Senate.

### THIRD DAY

(Tuesday, July 18, 1961)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Baker	Martin
Calhoun	Moffett
Colson	Moore
Creighton	Owen
Crump	Parkhouse
Dies	Patman
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Roberts
Hazlewood	Schwartz
Herring	Secrest
Hudson	Smith
Kazen	Weinert
Krueger	Willis

Absent—Excused

Rogers

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### Leave of Absence

Senator Rogers was granted leave of absence for today on account of important business on motion of Senator Schwartz.

#### Message from the House

Hall of the House of Representatives  
Austin, Texas,  
July 18, 1961.

Hon. Ben Ramsey, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following: